

## **REMARKS**

The Notice of Non-Compliant Amendment mailed July 7, 2010, has been carefully considered. The Notice appears to request that Applicants point out “the specific distinctions believed to render the claims, including any newly presented claims, patentable over the applied references.”

With respect to claims 55-60 rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Bass, it was stated in Applicants’ April 6, 2010 response that the feature of cutting using a blade, which was added to claim 55, is not disclosed in Bass. This is a specific distinction over Bass, which relies instead on the application of forms of energy such as for cauterization, coagulation, or laser heating. Claim 55 is therefore patentable for at least this reason. Similarly, claims 56-60, along with newly-added claims 92-94 are patent over Bass at least by virtue of their dependency on claim 55.

Newly-added claim 95 recites, *inter alia*, “cutting, using a shearing member...,” and newly-added claim 104 recites, *inter alia*, “cutting, using a scraper...” These features are not disclosed in Bass, which, as explained above, relies instead on the application of forms of energy such as for cauterization, coagulation, or laser heating. Nor are they disclosed in Halverson, which uses ultrasound energy to cavitate and emulsify fat.<sup>1</sup> For these reasons at least, claims 95 and 104, along with claims 96-103 and 105-112 respectively dependent therefrom, are patentable over Bass and Halverson.

## **Conclusion**

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

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<sup>1</sup> Halverson, col. 1, ll. 12-13.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,  
NIXON PEABODY LLP

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